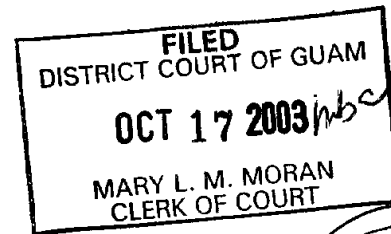


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10 **DISTRICT COURT OF GUAM**
11 **TERRITORY OF GUAM**

12 CLARISSA F. TOVES,
13 CHRISTINE D. GUZMAN, and
14 BRENDA L. HERNANDEZ,

15 Plaintiffs,

16 vs.

17 RAYTHEON TECHNICAL SERVICES,
18 GUAM, INC., SODEXHO MARRIOT
19 SERVICES, INC., NANA SERVICES
20 LLC., MARIE KRAUSS, JOSEPH MAJKA,
21 and DOES I through XX,

22 Defendants.

CIVIL CASE NO. CV03-00018

REPLY OF RAYTHEON TECHNICAL
SERVICES, GUAM, INC. TO CROSS
CLAIM OF SODEXHO MANAGEMENT
INC. AND CROSS CLAIMS AGAINST
SODEXHO MANAGEMENT, INC. AND
NANA SERVICES, LLC.

23 RAYTHEON TECHNICAL SERVICES,
24 GUAM, INC.,

25 Cross Claimant,

26 vs.

27 SODEXHO MANAGEMENT, INC. and
NANA SERVICES, LLC.,

Cross Claim Defendants.

ORIGINAL

1 CLARISSA F. TOVES, CHRISTINE D. GUZMAN, and BRENDA L. HERNANDEZ v. RAYTHEON TECHNICAL SERVICES, GUAM, INC., SODEXHO
2 MARRIOT SERVICES, INC., NANA SERVICES, LLC., MARIE KRAUSS, JOSEPH MAJKA, and DOES I through XX and RAYTHEON TECHNICAL
3 SERVICES, GUAM, INC. v. SODEXHO MANAGEMENT, INC. and NANA SERVICES, LLC.
DISTRICT COURT OF GUAM CASE NO. CV03-00018
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INC. AND NANA SERVICES, LLC.

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5 COMES NOW Defendant Raytheon Technical Services, Guam, Inc. (hereinafter referred to as
6 "Defendant") and replies to the cross claim of Defendant Sodexho Management, Inc. (hereinafter referred
7 to as "Sodexho") as follows:

8 1. Defendant admits the allegations of paragraphs 1, 2, 3, 4, 5, 6, and 9.

9 2. As to the allegations of paragraph 7, Defendant admits that Nana Services was a
10 subcontractor with Defendant; being without sufficient information or knowledge to form a belief concerning
11 the allegation that Nana Services was responsible for all acts alleged in the Complaint to have occurred
12 after and including July 20, 2002, Defendant denies the same.

13 3. As to the allegations of paragraph 8, Defendant admits that on or about July 26, 2002,
14 Sodexho and Nana Services, LLC. entered into a sub-contract; being without sufficient information or
15 knowledge to form a belief regarding the remaining allegations in paragraph 8, Defendant denies them
16 generally and specifically.

17 4. Defendant denies the allegations of paragraphs 10, 11, 13 and 18.

18 5. With respect to the allegations of paragraph 12 of the cross claim, Defendant incorporates
19 and re-alleges its answers to paragraphs 1 through 11 of the cross claim as though fully stated herein.

20 6. With respect to the allegations of paragraph 14 of the cross claim, Defendant incorporates
21 and re-alleges its answers to paragraphs 1 through 13 of the cross claim as though fully stated herein.

22 7. With respect to the allegations of paragraphs 17 of the cross claim, Defendant incorporates
23 and re-alleges its answers to paragraphs 1 through 16 of the cross claim as though fully stated herein.

24 8. With respect to the allegations of paragraphs 15 and 16 of the cross claim, Defendant is
25 without sufficient information or knowledge to form a belief regarding the allegations therein and therefore
26 denies them generally and specifically.

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2 LLC., MARIE KRAUSS, JOSEPH MAJKA, and DOES I through XX and RAYTHEON TECHNICAL SERVICES, GUAM, INC. v. SODEXHO MANAGEMENT,
3 INC. and NANA SERVICES, LLC.
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5 9. Except as expressly admitted herein, Defendant denies each and every allegation of
6 Sodexho's cross claim against Defendant.

7 10. Defendant further denies that Sodexho is entitled to any of the relief requested in the prayer
8 for relief as to Defendant.

9 AFFIRMATIVE DEFENSES

10 1. Sodexho fails to state a cause of action against Defendant.

11 2. Sodexho fails to state a claim against Defendant upon which relief can be granted.

12 3. Pursuant to that certain NOVATION AGREEMENT entered into by Sodexho on or about
13 July 20, 2002, Sodexho has waived each and every claim and cause of action alleged against Defendant
14 in Sodexho's cross claim.

15 4. Sodexho's cross claims against Defendant are barred by waiver and/or estoppel and/or
16 laches.

17 5. If judgment is entered against Defendant, Defendant is entitled to complete indemnification
18 by Nana, LLC. pursuant to NOVATION AGREEMENT and the Sub-contract between Defendant and
19 Nana Services, LLC.

20 6. If judgment is entered against Defendant, Defendant is entitled to contribution and
21 indemnification from Sodexho.

22 7. Sodexho's cross claims against Defendant are barred by the doctrines of contributory
23 and/or comparative negligence.

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2 LLC., MARIE KRAUSS, JOSEPH MAJKA, and DOES I through XX and RAYTHEON TECHNICAL SERVICES, GUAM, INC. v. SODEXHO MANAGEMENT,
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5 CROSS CLAIMS

6 COMES NOW Defendant Raytheon Technical Services, Guam, Inc. (hereinafter "Raytheon"),
7 and for its Cross-claims against Defendant Sodexho Management, Inc. (hereinafter "Sodexho") and
8 Defendant Nana Services, LLC. (hereinafter "Nana"), alleges as follows:

9 1. This Court has jurisdiction over the cross-claims of Defendant Raytheon pursuant to 28
10 U.S.C. §1367 (a).

11 2. At all times relevant to this action, Defendant Raytheon Technical Services, Guam, Inc. was
12 and is duly incorporated, licensed and authorized to conduct business on Guam.

13 3. Upon information and belief and at all times relevant to this action, Defendant Sodexho
14 Management, Inc. was and is duly incorporated, licensed and authorized to conduct business on Guam.

15 4. Upon information and belief and at all times relevant to this action, Defendant Nana
16 Services LLC. was and is duly incorporated, licensed and authorized to conduct business on Guam.

17 5. On or about April 9, 2000, Defendant Raytheon assumed responsibility as the Base
18 Operating Service Contractor on Guam for the United States Navy Guam Base Operating Support
19 Services Program pursuant to the A-76 policy (the August 1983 Office of Management and Budget
20 (OMB), Circular No. A-76, known as the A-76 Performance of Commercial Activities).

21 6. On or about May 22, 2000, Defendant Raytheon, as Contractor, and Defendant Sodexho,
22 as subcontractor, entered into a written Subcontract Agreement whereby Defendant Sodexho would
23 provide, *inter alia*, certain food services, and morale, welfare and recreation services as part of the U.S.
24 Navy-Guam, Base Operating Services Program.

25 7. As a part of its duties under the Subcontract, Defendant Sodexho was responsible for
26 management and operation of the Top O' the Mar Club, Club Rumors, and other facilities; Sodexho was

27 Y:\FILES3\88301-14\REPLY

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2 LLC., MARIE KRAUSS, JOSEPH MAJKA, and DOES I through XX and RAYTHEON TECHNICAL SERVICES, GUAM, INC. v. SODEXHO MANAGEMENT,
3 INC. and NANA SERVICES, LLC.
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5 further responsible for supervising the employees working at those facilities, for scheduling of employee
6 work assignments, and for the planning and scheduling of activities and events occurring at such facilities.

7 8. From on or about April 9, 2000, through on or about July 26, 2002, Defendant Sodexho
8 operated and managed the Top O' the Mar and other facilities, and supervised the employees working in
9 those locations.

10 9. In the Subcontract, Defendant Sodexho agreed to indemnify Defendant Raytheon against
11 any suit, action, expense, loss or damage whatsoever, together with reasonable attorneys fees, arising out
12 of or in any way connected with Defendant Sodexho's performance of or failure to perform the
13 subcontract, or that of Defendant Sodexho's agents, employees or Subcontractors.

14 10. Defendant Sodexho further agreed in the subcontract to provide insurance coverage for
15 the entire period of contract performance protecting Raytheon from all claims arising from or as a result of
16 Sodexho's performance under the subcontract, such coverage to include employer's liability and
17 comprehensive general liability (including Operations, Owners and Contractors Protective, Contractural
18 and Products - Completed Operations).

19 11. In the Subcontract, Defendant Sodexho agreed not to discriminate against any employee
20 because of race, color, religion, sex, or national origin, and to comply with equal opportunity and affirmative
21 action requirements.

22 12. On or about July 20, 2002, Defendants Raytheon, Sodexho, and Nana Services entered
23 into a NOVATION AGREEMENT; thereunder Sodexho transferred all of its rights, obligations and
24 liabilities under its subcontract with Raytheon to Defendant Nana Services. Defendant Nana Services
25 assumed all rights, obligations, and liabilities of Sodexho thereunder. Defendant Nana Services assumed
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5 all claims against Sodexho under the subcontract as if Nana Services were the original party to the
6 subcontract.

7 13. On or about July 26, 2002, Defendant Nana Services entered into a Subcontract
8 Agreement with Defendant Raytheon whereby Defendant Nana Services assumed responsibility to manage
9 and operate the Top O' the Mar club, Club Rumors and other facilities. would provide the same or similar
10 services with regard to the Top O' the Mar that had previously been provided by Defendant Sodexho.

11 14. In the Subcontract, Defendant Nana agreed to indemnify Defendant Raytheon against
12 any suit, action, expense, loss or damage whatsoever, together with reasonable attorneys fees, arising out
13 of or in any way connected with Defendant Nana's performance of or failure to perform the subcontract,
14 or that of Defendant Nana's agents, employees or Subcontractors.

15 15. Defendant Nana Services further agreed in the subcontract to provide insurance coverage
16 for the entire period of contract performance protecting Raytheon from all claims arising from or as a result
17 of Nana's performance under the subcontract, such coverage to include employer's liability and
18 comprehensive general liability (including Operations, Owners and Contractors Protective, Contractual and
19 Products - Completed Operations).

20 16. In the Subcontract, Defendant Nana Services agreed not to discriminate against any
21 employee because of race, color, religion, sex, or national origin, and to comply with equal opportunity
22 and affirmative action requirements.

23 17. On or about July 26, 2002, Defendants Nana Services and Sodexho entered into a
24 subcontract whereby Defendant Nana Services assumed day to day management and control of the Top
25 O' the Mar' and other activities and employees under its subcontract with Defendant Raytheon.
26 Subsequent to July 26, 2002, no employees of Defendant Raytheon were working at the Top O' the Mar.
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5 18. On or about June 9, 2003, Plaintiffs in the above captioned cause filed suit against various
6 defendants, including but not limited to Defendants Raytheon, Sodexho, and Nana Services. Plaintiffs
7 allege that acts committed by defendants violated Title VII of the Civil Rights Act, the Equal Pay Act, and
8 other rights of Plaintiffs' under law. Plaintiffs allege that defendants, including Defendant Raytheon, caused
9 injuries to Plaintiffs and are liable for damages.

10 19. Defendant Raytheon denies that it is in any manner responsible for causing any of the
11 injuries or damages claimed by Plaintiffs in their complaint, or committing any violations of law claimed by
12 Plaintiffs. However, as the direct and proximate result of actions and alleged misconduct of Defendants
13 Sodexho and Nana Services, Defendant Raytheon has been required to defend this action and possibly
14 become obligated to pay certain amounts to Plaintiffs herein as damages.

15 20. At all times relevant alleged in Plaintiffs' complaint, Defendants Sodexho and Nana
16 Services managed and operated of the Top O' the Mar facility and other facilities referenced in the
17 Subcontracts. Said Defendants managed and supervised the employees at the Top O' the Mar, including
18 Plaintiffs, and Plaintiffs' work schedules were established by Defendants. If the acts and violations of law
19 alleged by Plaintiffs were committed, which Defendant Raytheon denies, such acts and violations of law
20 were committed by Defendants Sodexho and Nana Services.

21 21. Plaintiffs' complaint herein alleges various acts and claims of discrimination that arise out
22 of and are connected to performance by Defendants Sodexho and Nana of their duties under the
23 subcontracts and their management and operation of the Top O' the Mar. The acts alleged by Plaintiffs
24 were committed, if at all, by Defendants Sodexho and Nana, or their employees, or employees under their
25 control and supervision, and not Defendant Raytheon. If defendants Sodexho and Nana Services
26 committed the acts and violations alleged by Plaintiffs, such acts and violations constitute a breach of
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5 contract by Defendants Sodexho and Nana Services and a failure to perform their duties and obligations
6 under their subcontracts with Defendant Raytheon.

7 22. In accordance with their Subcontracts, Defendants Sodexho and Nana Services are
8 required to indemnify Defendant Raytheon against the claims of Plaintiffs' set forth in the complaint or any
9 liability resulting therefrom, and to insure and protect Defendant Raytheon from any damages or liability
10 resulting from Plaintiffs' claims.

11 COUNT ONE
12 CONTRACTUAL INDEMNITY
(NANA SERVICES)

13 23. Defendant Raytheon re-alleges and incorporates herein as though fully set forth the
14 allegations contained in paragraphs 1 through 22 of this Cross-Claim.

15 24. Pursuant to the Subcontracts between Defendant Raytheon and Defendant Sodexho, the
16 subcontract between Defendants Raytheon and Defendant Nana Services, and the NOVATION
17 AGREEMENT referenced above, Defendant Nana Services has a duty to indemnify Defendant Raytheon
18 against any and all claims, damages, expenses, losses, or attorneys fees suffered or incurred by Defendant
19 Raytheon as a result of Plaintiffs' lawsuit which in any matter arise out of or are in any way connected with
20 Defendant Nana's or Defendant Sodexho's performance of or failure to perform the subcontracts, or to
21 perform the services thereunder in accordance with non-discrimination requirements and other contractual
22 requirements contained therein.

23 25. Pursuant to the Subcontracts, Defendant Nana Services has a duty to indemnify Defendant
24 Raytheon against any and all claims, damages, expenses, losses, or attorneys fees suffered or incurred by
25 Defendant Raytheon as a result of Plaintiffs' lawsuit, and to insure and protect Defendant Raytheon from
26 any damages or liability resulting from Plaintiffs' claims.

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2 LLC., MARIE KRAUSS, JOSEPH MAJKA, and DOES I through XX and RAYTHEON TECHNICAL SERVICES, GUAM, INC. v. SODEXHO MANAGEMENT,
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5 26. Accordingly, a contractual right of indemnity exists in favor of Defendant Raytheon against
6 Defendant Nana Services for any expense, loss, or damage, together with costs of investigation, defense
7 thereof, and reasonable attorneys fees, suffered or incurred by Defendant Raytheon as a result of Plaintiffs'
8 lawsuit.

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COUNT TWO
EQUITABLE INDEMNITY
(NANA SERVICES AND SODEXHO)

27. Defendant Raytheon re-alleges and incorporates herein as though fully set forth the
allegations contained in paragraphs 1 through 26 of this Cross-Claim.

28. Based on the principles of equitable indemnity, to the extent that damages are imposed
upon Defendant Raytheon as a result of Plaintiffs' lawsuit, an equitable right of indemnity exists in favor of
Defendant Raytheon against Defendants Sodexho and Nana Services indemnifying Defendant Raytheon
against any expense, loss, or damage, together with costs of investigation, defense thereof, and reasonable
attorneys fees, suffered or incurred by Defendant Raytheon as a result of Plaintiffs' lawsuit.

29. Defendants Nana Services and Sodexho must equitably indemnify Defendant Raytheon in
an amount to be proven at trial.

COUNT THREE
CONTRIBUTION
(NANA SERVICES AND SODEXHO)

30. Defendant Raytheon re-alleges and incorporates herein as though fully set forth the
allegations contained in paragraphs 1 through 29 of this Cross-Claim.

31. Plaintiffs' claims, if any, arise from the conduct of Defendants Sodexho and Nana Services,
their agents and employees.

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5 32. If liability is imposed against Defendant Raytheon, then Defendant Raytheon is entitled to
6 contribution from Defendants Sodexho and Nana Services pursuant to 7 GCA §24602 in an amount up
7 to the value of any judgment which may be awarded to Plaintiffs.

8 WHEREFORE, as to its Cross-Claims against Defendants Sodexho and Nana Services, Defendant
9 Raytheon Technical Services, Guam, Inc. prays for judgment as follows:

10 1. That Defendants Sodexho and Nana Services fully indemnify Defendant Raytheon for any
11 and all expenses, losses, or damages, together with costs of investigation, defense thereof, and reasonable
12 attorneys fees, that Defendant Raytheon has incurred or may incur as a result of Plaintiffs' lawsuit;

13 2. That, if Defendants Raytheon, Sodexho, and Nana Services are found to be jointly and
14 severally liable for injuries sustained by Plaintiffs, that the Court award Raytheon contribution proportionate
15 to the relative fault of the parties;

16 3. For attorneys fees;

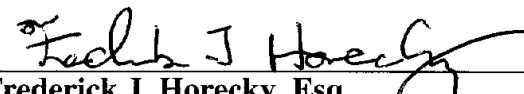
17 4. For costs of suit; and

18 5. For such other relief as the Court deems proper.

19 Dated this 17th day of October, 2003.

20
21 **LAW OFFICES OF**
22 **HORECKY & ASSOCIATES**

23
24 By:


25 Frederick J. Horecky, Esq.
26 Attorneys for Defendant Raytheon Technical
27 Services, Guam, Inc.